

## HOUSE BILL NO. 313

INTRODUCED BY J. POMNICHOWSKI

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING COUNTIES TO PERMIT OPENCUT OPERATIONS;  
AND AMENDING SECTION 82-4-432, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Local permitting of opencut operations -- findings -- purpose.** (1) The legislature finds that:

(a) the extraction and use of opencut materials is important to the economy of this state as well as to local economies;

(b) the extraction and use of opencut materials can have significant local impacts;

(c) it is the policy of this state to provide for the reclamation and conservation of land subjected to opencut operations; and

(d) county governments should have the ability to permit opencut operations within their jurisdictional areas.

(2) It is the purpose of [sections 1 and 2] to:

(a) preserve natural resources;

(b) aid in the protection of wildlife and aquatic resources;

(c) safeguard and reclaim through effective means and methods all agricultural, recreational, home, and industrial sites subjected to or that may be affected by opencut operations;

(d) protect and perpetuate the taxable value of property through reclamation;

(e) protect scenic, scientific, historic, or other unique areas; and

(f) promote the health, safety, and general welfare of the people of this state.

**NEW SECTION. Section 2. County permit system authorized.** (1) A county may adopt a permit system for opencut operations, as defined in 82-4-403, within its jurisdictional area.

(2) A county permit system adopted pursuant to this section:

(a) must further the purposes stated in [section 1];

1 (b) does not exempt an opencut operation from the requirements of The Opencut Mining Act; and  
2 (c) does not preclude a county from regulating sand and gravel opencut operations pursuant to zoning  
3 regulations adopted under Title 76, chapter 2, part 2.

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5 **Section 3.** Section 82-4-432, MCA, is amended to read:

6 **"82-4-432. Application for permit -- contents -- issuance -- amendment.** (1) An application for a  
7 permit must be made using forms furnished by the department and must contain the following:

8 (a) the name of the applicant and, if other than the owner of the land, the name and address of the  
9 owner;

10 (b) the type of operation to be conducted;

11 (c) the estimated volume of overburden and materials to be removed;

12 (d) the location of the proposed opencut operation by legal description and county;

13 (e) the date when the opencut operation is proposed to commence; and

14 (f) a statement that the applicant has the legal right to mine the designated materials in the lands  
15 described.

16 (2) The application must be accompanied by:

17 (a) a bond or security meeting the requirements as set out in this part;

18 (b) a statement from the local governing body having jurisdiction over the area to be mined certifying that  
19 the proposed sand and gravel opencut operation complies with applicable local zoning regulations adopted under  
20 Title 76, chapter 2;

21 (c) if applicable, a statement from the county having jurisdiction over the area to be mined certifying that  
22 the proposed opencut operation has obtained a permit pursuant to [section 2].

23 ~~(c)~~(d) a plan of operation that meets the requirements of 82-4-434; and

24 ~~(d)~~(e) written documentation that the landowner has been consulted about the proposed plan of  
25 operation.

26 (3) If, prior to applying for a permit, a person notifies the department of the intention to submit an  
27 application and requests that the department examine the area to be mined, the department shall examine the  
28 area and make recommendations to the person regarding the proposed opencut operation. The person may  
29 request a meeting with the department. The department shall hold a meeting if requested.

30 (4) (a) Except as provided in 75-1-208(4)(b), upon receipt of an application containing all items listed in

1 subsections (1) and (2), the department shall, within 30 days, review the application, inspect the proposed site,  
2 and notify the person whether or not the department believes that the application is acceptable. An application  
3 is acceptable if it complies with all requirements of subsections (1) and (2). If the department determines that the  
4 application is not acceptable, the department shall include in the notification a detailed identification of all  
5 deficiencies.

6 (b) Within 30 days of receipt of the applicant's responses to the identified deficiencies, the department  
7 shall notify the applicant if the application is acceptable or not. If the application is unacceptable, the notice must  
8 include a detailed explanation of the remaining deficiencies.

9 (c) The department may for sufficient cause extend either or both of the 30-day review periods for an  
10 additional 30 days if it notifies the applicant of the extension prior to the end of the respective original 30-day  
11 period. The department shall include in the notification of extension the reason for the extension.

12 (d) If the application is acceptable, the department shall issue a permit to the operator that entitles the  
13 operator to engage in the opencut operation on the land described in the application.

14 (5) An operator may amend a permit by submitting an amendment application to the department. Upon  
15 receipt of the amendment application, the department shall review it in accordance with the requirements and  
16 procedures in subsection (4). If the amendment application is acceptable, the department shall issue an  
17 amendment to the original permit."

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19 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 and 2] are intended to be codified  
20 as an integral part of Title 76, and the provisions of Title 76 apply to [sections 1 and 2].

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